

COMMISSION ON
PEACE OFFICER STANDARDS AND TRAINING



EDMUND G. BROWN JR.
GOVERNOR

KAMALA D. HARRIS
ATTORNEY GENERAL

Date: January 20, 2016

To: Affected Chiefs and Sheriffs
Cc: EDI Operators

Subject: **CPRA REQUEST: RELEASE OF PEACE OFFICER
INFORMATION**

IMMEDIATE ACTION REQUIRED

On January 6, 2016, the Commission on Peace Officer Standards and Training (POST) received a California Public Records Act (CPRA) request from the Orange County Public Defender's Office requesting a listing of all Peace Officers who have completed his/her basic course from the Fullerton College between January 2009 through November 2015. The report requested will include all the employment and training history of the affected officers.

Background:

On August 27, 2007, the California State Supreme Court ruled that some information in the Peace Officer Database maintained by POST is public information subject to release in response to a CPRA request. For the full text of the court decision, go to:

<http://caselaw.lp.findlaw.com/data2/californiastatecases/s134072.pdf>

In its decision, the California State Supreme Court acknowledged that some peace officers could be at risk if their names were made public. To protect the identity of peace officers assigned to sensitive or hazardous assignments, departments were offered the opportunity to redact the names of what the court recognized as "particular officers." The Supreme Court decision referred to Government Code Sections 6254 subdivision (c) and 6255.

Though the Supreme Court did not list each circumstance that would justify an exemption, the Court did state, as an example, that an exemption would apply to undercover officers who are using their real names during undercover operations. However, if an alias were used by the undercover officer, the officer's real name would be subject to disclosure by POST pursuant to a CPRA request. According to the Supreme Court, this is so because disclosure of the officer's real name would not put the officer at risk in the assignment.

The exemptions asserted by each department should follow the Supreme Court's analysis. These subsequent redactions will be made by contacting the POST EDI Helpdesk at (877) 275-5872.

CPRA Request:

POST is required to provide the Orange County Public Defender's Office a listing of the affected peace officers' information. To accomplish this, POST will provide the agency EDI operator with the names of the affected officers via phone. It is recommended that each department designate only one agency EDI operator to process the department's response back to POST. Once you, the department head, have decided which, if any, names are subject to an exemption and are to be protected from release, your designated EDI operator needs to contact the POST EDI Helpdesk as soon as possible to provide the necessary information.

Departments wishing to withhold names from the response to the CPRA request should contact their legal advisor. POST is not the custodian of any information that can be used to justify a department's decision that a particular officer's name should be exempt from disclosure. The officer's employer is the only entity able to claim the exemption and justify withholding names. For this reason, it is expected that if the redacted names are challenged in legal proceedings, the department that claimed the exemption will become involved in the legal proceeding in order to justify the exemption.

To allow departments sufficient time to respond, it is requested that EDI operators transmit the requested information to POST no later than **5:00 p.m. on Wednesday, January 27, 2016**. If departments do not respond to this request, it will be assumed there are no names to be redacted. The requested material is scheduled for release to the Orange County Public Defender's Office on **Friday, January 29, 2016**.

Questions regarding this CPRA request may be directed to me at (916) 227-2809 or dave.cornejo@post.ca.gov.

Thank you for your assistance and cooperation in responding to this request.

Sincerely,

DAVID CORNEJO
Assistant Executive Director
Administrative Services Division